IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

C.M.No.14780-CII of 2005 and
F.A.O. No.3442 of 2005(O.&M.)
Date of decision: 28.8.2006

Baldev Raj and another.

..... Appellants

Versus

The Oriental Insurance Company Limited and another.

..... Respondents

CORAM : Hon'ble Mr.Justice Uma Nath Singh
Hon'ble Mr.Justice Mahesh Grover

....

Present: Shri Sunil Chaudhary, Advocate for the appellants.
Shri Suvir Sehgal, Advocate for respondent no.1.

....

Mahesh Grover,J.

The appellants are the owner and the driver of the vehicle which caused the accident, as a result of which respondent no.2- Harpal son of Om Parkash suffered serious injuries. The Motor Accident Claims Tribunal, Panipat (hereinafter described as `the Tribunal') went on to award a sum of Rs.1,07,631/- as compensation to him. While awarding the said amount, the Insurance Company was absolved of its liability as it was found that the injured-claimant was travelling in the offending vehicle as a non-gratuitous passenger. The Tribunal further held that since there was a breach of policy, the Insurance Company cannot be made liable to pay the compensation.

The appellants have assailed the findings of the Tribunal to say that there was no breach of policy and that the Insurance Company ought to

have been held liable to pay the amount of compensation.

We have heard the learned counsel for the parties and perused the record.

Their Lordships of the Supreme Court in New India Assurance Co.Ltd. Versus Asha Rani, 2003 A.C.J. 1 (S.C.) and Pramod Kumar Agrawal Versus Mushtari Begum, 2004 A.C.J. 1903 (S.C.), held that the Insurance Company is not liable to pay the compensation and even though, it is to pay the amount in the first instance, it can recover the same from the owner. That being the position of law, no interference is warranted in the impugned award.

Even otherwise, the appeal is barred by inordinate delay of 360 days and the Apex Court in P.K.Ramchandran Versus State of Kerala and another, AIR 1998 S.C. 2276, has held that the period of limitation cannot be extended on equitable grounds.

Resultantly, the application under Section 5 of the Limitation Act as well as the appeal are dismissed.

(Mahesh Grover)
Judge

August 28,2006
"SCM"

(Uma Nath Singh)
Judge